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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY RELIGIOUS INTOLERANCE

Written statement*/ submitted by the Association for World Education, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 January 2001]

The Ancient Jewish Community of Iran and the Shiraz "Show Trial"

1. An important Jewish community existed in Babylonia and Persia from biblical times. Tens of thousands of Jews were successively deported to Assyria from the northern Kingdom of Israel (from 732 BCE) and to Babylonia from the southern Kingdom of Judea (597-581 BCE), particularly after the fall of Jerusalem and the destruction of the tenth century Temple built by King Solomon. After capturing Babylon in 538 BCE, the Persian ruler 'Cyrus, king of all... son of Cambyses' authorized the Jews to return to their homeland. About 50,000 did, while thousands remained in exile "by the rivers of Babylon". Cyrus the Great is extolled in biblical messianic terms - as the "annointed" one - for having authorized the return of the exiles, and the rebuilding of Jerusalem and the Second Temple. (Isaiah 44:28-45:1) During the tolerant two hundred year Persian rule in Judea (Yehud), and in the diaspora of Persia and Mesopotamia for a millenium and more, Jewish community life flourished.

2. All the regions invaded by the Arab conquerors from the seventh century were governed by Islamic legislation. The native inhabitants either converted to Islam or became dhimmis, that is: non-Muslim peoples "protected" by the dhimma - a pact granted to them in the treaty of submission that ended the jihad onslaught. This dhimmi status of inferiority - for Christians, Jews, Samaritans, Sabeans, Zoroastrians, and others - varied with place and period, but in Iran and in many other regions it continued into the twentieth century. The traditional climate of contempt is revealed in thousands of Islamic juridical and other texts, as well as in historical dhimmi sources. The legal inequality of dhimmis with Muslims is exemplified by the invalidity of their testimony in an Islamic court, based on a strict interpretation of the shari'a law.

3. Over the following centuries, the Jews of Shiraz - like their correligionists in other towns of Iran - were the target of constant discrimination and persecution. An example: in 1910 their quarter was totally destroyed by a fanatical mob, following a false ritual murder accusation involving a Muslim: 12 Jews were killed, 50 wounded, and 6,000 left homeless and in tatters. (1) In the 1990s the pious Jews of Shiraz were considered by the authorities to be an "assertive community," mainly because they refused to close their shops on Friday and open them on the Sabbath - one of the more plausible reasons for the arrest of 13 Jews on Passover eve 1999, among whom were a rabbi, three Hebrew teachers and a kosher butcher. This, in spite of the fact that articles 12 and 13 of Iran's Islamic Constitution purports to accord "full respect to their religion."

4. The Jewish community of Iran, which numbered nearly 120'000 in 1948, had diminished to about 70,000 in 1978. Now barely 20,000, this remnant is again - as so often in the past - in danger of scapegoat discrimination, and elimination as a religious group. One obvious aim of the Shiraz "show trial" was to create a situation of insecurity, so that the Iranian Jews would follow those who had abandoned their homes just prior to, and after, the 1979 Islamic Revolution. Since the Shiraz arrests and the TV show trial - where the accusations of espionage stemmed from contacts with their relatives in Israel - the departures have continued. The objective is thereby being achieved.

5. Before the trial, President Muhammad Khatami guaranteed that, under Islamic law, the

6. In his wide-ranging Report on Iran to the fifty-sixth session (E/CN.4/2000/35) Special Rapporteur Maurice Danby Copithorne devotes a section to the status of minorities. In his conclusion, he states that "one of the backwaters of the human rights situation in Iran is the status of minorities, ethnic and religious." In Annexe II, he referred, inter alia, to the case of the thirteen arrested Jews. (His Report for 2001, submitted to the fifty-seventh session of the Commission will provide fuller details.) He also mentioned that Iran's 13th, 14th and 15th periodic reports on the Elimination of All Forms of Racial Discrimination were considered at the August 1999 session of the CERD. (2) On 4 August 1999, the plight of Iran's Jewish community was raised by Mr. Regis de Gouttes of France; Iran's promised "written response" on this question - and also regarding other minorities - is still awaited. Special Rapporteur Maurice Glélé-Ahanhanzo's Report on Racism (E/CN.4/2000/16), also covers Iranian Jewry under '150-53.

7. The show trial of the thirteen Jews was "balanced" for the media with eight Muslims, but no outside observers or lawyers were accepted. The court-appointed defence lawyers were quoted in the Iranian press as saying that their clients were guilty. The head of the local judiciary stated that four of the defendants had confessed and asked for mercy. This was denied by defence attorney Esmail Naseri. Just before the trial began on 1 May 2000, the executive director of the Middle East and North African division of Human Rights Watch, Hanny Megally, declared: "The defence lawyers have not had access to all the files in the case, even for the minimum five-day period required by Iranian law." In September 2000, the appeals court reduced very slightly the harsh sentences handed down against ten of the thirteen Iranian Jews, three of them being acquitted.

8. In two urgent appeals addressed to the High Commissioner for Human Rights on 3 July and 21 September (copies of which were sent to the Special Rapporteur on Iran and to the Special Rapporteur on the Independence of Judges and Lawyers, Mr. Param Cumaraswamy), the Association for World Education raised a key point in this trial. It relates to the fact that while thirteen of the accused are Jews and eight are Muslims, yet all the trial proceedings - held in an Islamic court, behind closed doors "for security reasons" - appear to have been separate for each religious group. No details of the trial of the eight Muslims were provided, other than the acquittals, or the light sentences handed down. None went to prison. Experts on Islamic law explain this anomaly by the fact (see above ' 2) that, under the traditional interpretation of the Islamic shari'a law - whether it be Sunni or Shi'ite - any testimony by a non-Muslim in regard to a Muslim has no validity whatsoever in an Islamic Court.

9. We specifically appealed to Mrs. Mary Robinson to initiate a Special Procedures mechanism, via Mr.Param Cumaraswamy: "to enquire whether it is true that, in the Shiraz trial, any testimony from a Jew with regard to a Muslim was considered invalid by the court, because of the traditional and imperative obligations of the sacred Islamic shari'a law which forbids it. If this is still the actual situation in the Islamic Republic of Iran, then "justice" would have been basically flawed, and the appropriate UN body should intervene immediately to insist that all international human rights norms (ratified by Iran) be upheld for all in this case - and from now on."

10. On the initiative of Iran's President Khatami - soon after he took office in 1997 - the Year 2001 was officially designated by the United Nations General Assembly as "United Nations Year of

11. The Association for World Education reiterates its previous urgent requests to Mrs. Mary Robinson, and to Mr. Param Cumaraswamy: to initiate a Special Procedure mechanism along the lines indicated above; and for Mr. Maurice Copithorne - within his mandate - to examine this key substantive issue in all its legal ramifications.

12. The Association for World Education also calls upon this Commission: to examine diligently this landmark case when preparing its resolution on Iran, particularly in regard to the "universality of justice." The international human rights norms set out in the International Covenants - ratified by Iran - must be firmly upheld
on all occasions by the Commission, UN bodies, and UN Member States.

Notes

(1) David Littman,"Les Juifs en Perse avant les Pahlevi," *Les Temps Modernes*, NE 395, (Paris, June 1979), pp. 1910-1935 (and enlarged offprint, Imprimerie de l'Avenir, Geneva, Nov. 1979); Enlarged English version, "Jews under Muslim Rule: The Case of Persia", *Wiener Library Bulletin*, (London, June 1979) 32, n.s. 49/50, pp. 2-15.

(2) See 15th periodic report of States parties due in 1998. Add. Islamic Republic of Iran: CERD/C/338/Add. 8 of 28 October 1998.